



CITY COUNCIL AGENDA REPORT

MEETING DATE: OCTOBER 4, 2016

ITEM NUMBER: NB-2

SUBJECT: CALIFORNIA PROPOSITION 57 – CALIFORNIA PAROLE FOR NON-VIOLENT CRIMINALS AND JUVENILE COURT TRIAL REQUIREMENTS INITIATIVE

DATE: SEPTEMBER 26, 2016

FROM: OFFICE OF THE CEO

PRESENTATION BY: DANIEL K. BAKER, ASSISTANT TO THE CEO

FOR FURTHER INFORMATION CONTACT: DAN BAKER AT (714) 754-5156

RECOMMENDATION:

Per Council Policy 000-8, Mayor Mensinger is seeking City Council support in adopting a resolution of opposition regarding the “California Parole for Non-Violent Criminals and Juvenile Court Trial Requirements Initiative.” This measure is on the November 8, 2016 California state ballot as Proposition 57.

BACKGROUND/ANALYSIS:

Mayor Mensinger is seeking formal support from the Costa Mesa City Council to adopt a resolution (Attachment 3) of opposition on behalf of the City regarding California Proposition 57, the California Parole for Non-Violent Criminals and Juvenile Court Trial Requirements Initiative.

Currently, both of Costa Mesa’s legislative advocate partners, the League of California Cities (The League) and the Association of California Cities-Orange County (ACCOC), have yet to take a formal position on Proposition 57. As such, formal Council support is required when the City takes a position regarding pending legislation.

Per the State’s Legislative Analyst’s office, this measure makes changes to the State Constitution to increase the number of inmates eligible for parole consideration and authorizes the California Department of Corrections and Rehabilitation (CDCR) to award sentencing credits to inmates. The measure also makes changes to state law to require that youths have a hearing in juvenile court before they can be transferred to adult court. These provisions are described in greater detail below.

Parole Consideration for Nonviolent Offenders. The measure changes the State Constitution to make individuals who are convicted of “nonviolent felony” offenses eligible for parole consideration after serving the full prison term for their primary offense. As a result, the State Board of Parole Hearings (BPH) would decide whether to release these individuals before they have served any additional time related to other crimes or sentencing enhancements.

The measure requires CDCR to adopt regulations to implement these changes. Although the measure and current law do not specify which felony crimes are defined as nonviolent, this analysis assumes a nonviolent felony offense would include any felony offense that is not specifically defined in statute as violent. The Legislative Analyst's Office estimates that individuals who would be affected by the above changes currently serve about two years in prison before being considered for parole and/or released. Under the measure, we estimate that these individuals would serve around one and one-half years in prison before being considered for parole and/or released.

Authority to Award Credits. The measure also changes the State Constitution to give CDCR the authority to award credits to inmates for good behavior and approved rehabilitative or educational achievements. The department could award increased credits to those currently eligible for them and credits to those currently ineligible. As a result, CDCR could increase the amount of credits inmates can earn, which would reduce the amount of time served in prison.

Juvenile Transfer Hearings. The measure changes state law to require that, before youths can be transferred to adult court, they must have a hearing in juvenile court to determine whether they should be transferred. As a result, the only way a youth could be tried in adult court is if the juvenile court judge in the hearing decides to transfer the youth to adult court. Youths accused of committing certain severe crimes would no longer automatically be tried in adult court and no youth could be tried in adult court based only on the decision of a prosecutor. In addition, the measure specifies that prosecutors can only seek transfer hearings for youths accused of (1) committing certain significant crimes listed in state law (such as murder, robbery, and certain sex offenses) when they were age 14 or 15 or (2) committing a felony when they were 16 or 17. As a result of these provisions, there would be fewer youths tried in adult court.

Here is a partial list of "non-violent crimes" for which early release would be possible if this measure is passed: rape by intoxication, rape of an unconscious person, human trafficking involving sex act with minors, drive-by shooting, assault with a deadly weapon, taking a hostage, domestic violence involving trauma, possession of a bomb or weapon of mass destruction, hate crime causing physical injury, arson causing great bodily injury, discharging a firearm on school grounds, corporal injury to a child, and false imprisonment of an elderly person.

Fiscal Impacts of Proposition 57 as provided by the Legislative Analyst's Office

Parole Consideration for Nonviolent Offenders - The measure would reduce state costs as the size of the prison population would decline. The level of savings would depend heavily on the number of individuals BPH chose to release. Based on recent BPH experience with parole consideration for certain nonviolent offenders, the LAO estimates that the ongoing fiscal impact of this provision would likely be state savings in the tens of millions of dollars annually. These savings would be offset somewhat by additional costs for BPH to conduct more parole considerations.

The measure would also result in temporary fiscal effects in the near term due to (1) additional savings from the release of offenders currently in prison who would be eligible for parole consideration and (2) an acceleration of parole costs to supervise those individuals who are released from prison earlier than otherwise.

Acceleration of County Costs. Because the measure would result in the early release of some individuals who are supervised by county probation officers following their release from prison, the measure would likely increase the size of the probation population in the near term. In the absence of the measure, counties would have eventually incurred these probation costs in the future.

Sentencing Credits for Prison Inmates - To the extent CDCR awards individuals with additional credits, the measure would reduce state costs as a result of a lower prison population. Any level of savings is highly uncertain, as it would depend on how much average sentence lengths were reduced by CDCR. If the department granted enough credits to reduce the average time inmates serve by a few weeks, the measure could eventually result in state savings in the low tens of millions of dollars annually.

However, the savings could be significantly higher or lower if the department made different decisions. Because the measure could result in the early release of some individuals who are supervised by state parole agents following release, the measure could temporarily increase the size of the parole population. The state, however, would eventually have incurred these parole costs even in the absence of the measure.

Acceleration of County Costs. Because the measure could result in the early release of some individuals who are supervised by county probation officers following their release from prison, the measure could increase the size of the probation population in the near term. In the absence of the measure, counties would have eventually incurred these probation costs in the future.

Prosecution of Youth in Adult Court - If the measure's transfer hearing requirements result in fewer youths being tried and convicted in adult court, the measure would have a number of fiscal effects on the state. First, it would reduce state prison and parole costs as those youths would no longer spend any time in prison or be supervised by state parole agents following their release. In addition, because juvenile court proceedings are generally shorter than adult court proceedings, the measure would reduce state court costs. These savings would be partially offset by increased state juvenile justice costs as youths affected by the measure would generally spend a greater amount of time in state juvenile facilities. (As noted earlier, a portion of the cost of housing these youths in state juvenile facilities would be paid for by counties.) In total, the LAO estimates that the net savings to the state from the above effects could be a few million dollars annually.

County Costs. If fewer youths are tried and convicted as adults, the measure would also have a number of fiscal effects on counties. First, as discussed above, counties would be responsible for paying a portion of the costs of housing these youths in state juvenile facilities. In addition, county probation departments would be responsible for supervising these youths following their release. Since juvenile court proceedings are generally shorter than adult court proceedings, the above county costs would be partially offset by some savings. For example, county agencies involved in court proceedings for these youths—such as district attorneys, public defenders, and county probation— would experience a reduction in workload. In total, the LOA estimates that the net costs to counties due to the above effects would likely be a few million dollars annually.

Support and Opposition for Proposition 57

At a legislative informational hearing on this proposal in June, the following organizations spoke in support:

- Human Rights Watch
- National Center for Youth Law
- Chief Probation Officers of California
- Crime Survivors for Safety and Justice
- Center on Juvenile and Criminal Justice
- Juvenile Defender Center Board
- California Alliance for Youth and Community Justice
- Silicon Valley De-Bug
- Friends Committee on Legislation in California

At that same hearing, the following individuals and organizations spoke in opposition:

- Merced County District Attorney's Office
- Association for Los Angeles Deputy Sheriffs
- Orange County District Attorney's Office
- Marc Klaas, victims' rights *advocate*

Currently, four campaign committees have registered with the FPPC in support of Proposition 57. They include **Californians for Public Safety and Rehabilitation**, which has received over \$4 million in contributions from Governor Brown's Ballot Measure Committee. The California Democratic Party has also contributed \$1.1 million to the committee. The Service Employees International Union (SEIU) has contributed to the committee as well.

The Voter Project Action Fund (sponsored by social justice organizations), Civic Participation Action Fund and The Million Voters Project (which falls under the umbrella of the organization California Calls) are also registered in support of the initiative.

There are currently no campaign committees that are registered with the FPPC in opposition to Prop 57, however San Diego Mayor Kevin Faulconer has indicated that he intends to lead a statewide campaign in opposition to the Initiative. Other groups opposed to the initiative are the California Police Chiefs Association, the California Peace Officers' Association, the California District Attorneys Association, and many others. In addition, the City of Beverly Hills City Council recently approved a resolution opposing the measure.

FISCAL REVIEW:

The fiscal impacts of this ballot measure on the City are unknown at this time.

LEGAL REVIEW:

Legal has prepared and reviewed the documents as to form.

CONCLUSION:

Upon Council direction, staff will move forward with the appropriate action.

DANIEL K. BAKER
Assistant to the CEO

ATTACHMENTS: 1 [City Council Policy 000-8](#)
2 [Ballot Measure text](#)
3 [Resolution to Oppose California Proposition 57](#)